



REPORT OF THE PARLIAMENTARY STANDING COMMITTEE OF THE PUBLIC ACCOUNTS ON: THE PROCESSES INVOLVED IN HANDLING THE CASES OF PUBLIC OFFICERS PLACED ON ADMINISTRATIVE LEAVE

**TO HIS HONOUR THE SPEAKER AND THE MEMBERS OF THE HONOURABLE HOUSE OF
ASSEMBLY:**

The Parliamentary Standing Committee on the Public Accounts has the honour of submitting the following Report:

1 Introduction

Your Public Accounts Committee (PAC) is pleased to report to the Honourable House of Assembly that we have had concerns about the numbers of Public Officers placed on Administrative Leave, and the costs to Government for sustaining the work and productivity of the departments or entities in which those Public Officers are employed. Your Committee undertook an investigation into the overall data on Administrative Leave covering the period from April 2016 through to June 2018; and the processes involved in investigating and adjudicating the cases of Public Officers who have allegedly committed some form of misconduct and have been placed on Administrative Leave.

Your PAC held a number of discussions on this subject during in camera meetings, and also received extensive information and input from several officers at other meetings after having first received the requested data from the Head of the Public Service. A total of 8 meetings were held for discussing and examining this issue. In addition, there were several

follow-up emails between Your Committee and relevant Officers and entities, including the Public Service Commission, seeking further clarity and more meaningful information.

The meetings held included the following dates:

- June 5, 2018 (concern first raised)
- June 26, 2018
- December 4, 2018
- December 13, 2018
- January 29, 2019
- February 14, 2019
- May 28, 2019
- June 18, 2019

2 Witnesses

The list below identifies the persons who appeared before the PAC at 'in camera' meetings and provided information to the Committee:-

Oral Testimony:

- Head of the Public Service
- Permanent Secretary in the Ministry of Public Works
- Former Acting Director in the Parks Department
- Chairman of the Public Service Commission
- Secretary to Public Service Commission/Director of Human Resources.

3 Findings

Your Committee received the requested data covering the period from April 2016 to June 2018 from the Head of the Public Service in September 2018. After our initial observations and discussion on the data, Your Committee was struck by three of the cases in particular and the related costs to government resulting from the Administrative Leave periods themselves and the final adjudication decision reached by the Public Service Commission after the relevant investigations were conducted and disciplinary actions taken by the Senior Management and Executive Officers overseeing these cases.

In conducting our work, the issue that came to light was the apparent inordinate Administrative Leave taken within the Civil Service. It must be pointed out that in the event that administrative leave is determined to be appropriate, the civil servant is entitled to receive full salary until the matter is dispensed with.

We determined from information requested of and received from the Accountant General for the period from April 1, 2016 through June 30, 2018, that there were costs associated with administrative leave over and above the salary cost for the individuals on leave, such as deputizing by other civil servants who were required to act up at a higher salary than their own position requires. These additional costs were determined to be \$24,538.86.

The Total cost of Administrative Leave during the 15-month period under consideration therefore amounted to \$568,239.94 over a total of 19 cases, together with the additional \$24,538.86 for covering the absentee positions for the cases specifically under our consideration.

Your Committee enquired into three instances of administrative leave, identified as cases 7, 8 and 9, which among them, accounted for \$314,167, representing 55% of the total charge to the public purse as determined by the schedule. The schedule also highlighted, other than costs, the resolution that had been determined to be appropriate in the circumstances of each case.

Our discovery showed that the three instances were interconnected in the same ministry and it was the desire of the Committee to determine how such administrative leave serves to drain the public purse, and to determine how best to minimize the lengthy process before a resolution is found.

In order to understand the issue, your Committee first interviewed the senior civil servants of the department in the persons of the Former Acting Director of the Department (FAD) and the Permanent Secretary for Works & Engineering (PS). The PS advised that the matter under deliberation occurred prior to his tenure within the Ministry and that the FAD who

was a part of the senior management team at the time of the infractions would be better suited to respond to questions, which she did.

We were able to determine that the matter under investigation involved charges of gross misconduct against each individual. The penalties meted out to the three individuals were as follows:

Case # 7 who was on paid leave from 6 May, 2016 through 12 June 2017 at a cost of \$92,785 with Management deciding to dismiss the employee effective 12 June 2017;

Case # 8 who was on paid leave from 16 July, 2016 to 1 June, 2017, at a cost of 80,522, with management deciding to suspend the employee for one month without pay effective 1 June 2017; and

Case # 9 who was on paid leave for three consecutive periods commencing 9 May 2016 until April 2017, at a cost of \$140,860, with Management deciding to reduce the rank and demote the employee to an office with lesser salary effective 4 April 2017.

It was determined that the penalties emanated from a thorough investigation of the allegations against the individuals and the senior management believed their findings and their investigations to be very sound, and their penalties appropriate.

According to the schedule, it was seen that the penalties determined by Senior Management had been overturned by the Public Service Commission (PSC) on appeal in August 2017, with no reason being offered in either case.

In order to understand the process by which such matters are left with the PSC for a final determination, we first interviewed the Head of the Public Service (HOPS).

HOPS confirmed that these matters in the first instance are handled by the senior executive of the department concerned, a decision is made as to the appropriateness of the charges, an investigation is conducted and a determination made with the facts obtained.

In the instant matters, the investigations by the senior executive determined that the behavior of the individuals warranted the penalties. As a result, the matters were required to be reported to the HOPS in order that the appropriate correspondence is sent to the individuals advising them of the charges, the findings and the penalties, and to advise them of their right to appeal if they were dissatisfied with the disposition of their matter.

The HOPS complied with the requirement as set out in the Civil Service Code of Conduct to advise the employee of the decision of management, the penalties meted out and the right for them to appeal.

The individuals indeed took advantage of their right to appeal to the PSC, and in all three instances, the PSC overturned and dismissed the penalties on August 14, 2017, and allowed full reinstatement of all individuals.

Your Committee undertook to understand how a matter that was considered fully investigated and appropriately dispensed with was able to be overturned by the PSC, and we therefore decided to interview the Chairman of the PSC, along with the Secretary to the PSC.

In order to understand how a determination made by the senior executive and confirmed by the HOPS could have been so incorrect as to cause significant cost to the government for salaries that were required to be paid during suspension, as well as costs for individuals acting in the place of the suspended individuals, it would have been of benefit to your Committee to understand what was deficient in the investigation that caused an appeal to succeed.

Notwithstanding the invitation to appear in front of your Committee, the Chair of the PSC advised that he did not come prepared to answer specific questions but, rather, would answer generally what occurs in similar situations. Following our meeting with him in mid-June 2019, the PSC Chair was requested by your Committee to revert with the specific information that was required in order for this enquiry to be considered complete.

The Secretary to the PSC reverted on June 24, indicating that the overturn of the original decisions was due to 'inconsistencies with how the matters were handled'. It was thought that the explanation given was not adequate to provide an understanding of the decisions, and it was therefore not helpful to determine how any future process could be 'consistent'. We therefore followed up further for more clarity. On July 19, 2019, the Secretary to the PSC advised that the Committee would receive further explanation 'following the PSC's meeting on Monday'.

On July 29, 2019, your Committee was advised that the information that was given during the testimony of the PSC was all that they would provide and that we should not expect any further detail, as they had nothing further to add.

It is unfortunate that our meeting and correspondence with the PSC Chair failed to provide sufficient information to explain the overturning. It was your Committee's desire to ensure that future cases are properly dispensed with to avoid unnecessary costs to the public purse, but this has been frustrated by the PSC's failure to provide the requisite information in respect of the reasons behind their decisions.

4 Recommendations

Given the failure to receive meaningful information from the PSC, Your Committee advises that our best recommendations can be delivered only in the light of the concrete evidence that we were able to consider. Such recommendations are outlined as follows:

1. The time taken for investigation and hearing by the senior management appeared to be too lengthy.

Since it had been determined that there were infractions of the Code of Conduct and that suspensions were appropriate, the next steps in the process should have been dispensed with on a more timely basis. Timely dispensing of an issue will minimize cost of leave and cost of deputizing.

2. The process for Appeals undertaken by the PSC should be fully documented and disseminated to the HOPS, in order that the reason for the decisions taken by the PSC are evident to avoid any future inadequate decision-making by Senior Management and/or Senior Executives.

While it was determined that the process may have gone through the correct channels, the documentation of the overturning of the decision, if it exists, was not available to the Committee. As such, the trust in the work of the PSC has been seriously diminished, as we cannot recommend an improvement in the approach of the Senior Executives if the PSC fails to advise where or if the shortcoming rests with the investigative process.

3. The PSC has failed to provide your Committee with adequate explanation of their process and therefore, should be advised of the importance of full disclosure so that the evaluation of the process can assist in minimizing undue cost to the public purse. Your Committee therefore recommends that the legislative regulations of the PSC be reviewed and amended as required to allow for reasonable disclosure.

4. The importance of the work of the Committee must be reinforced and full cooperation from witnesses must be expected, failing which there should be appropriate sanctions for witnesses who are not totally forthcoming.

Your Committee is appreciative of the forthrightness of the witnesses, the Permanent Secretary for Public Works, the Former Acting Director of Parks, and the Head of Public Service.

Your Committee is equally disappointed with the failure of the Chair of the PSC to be more forthcoming with assistance in helping to advance protection of the public purse.

Your Committee recommends that regulations governing the Public Service Commission be revised to require that the PSC provide some form of reasoning or explanation for the decisions they have made in appeals cases such as the cases examined by the Committee where the decisions and disciplinary action taken by Senior Management and/or HOPS are reversed by the PSC, such that HOPS and Senior Management can learn from any mistakes made and address those aspects of the investigative processes that may need improvement.

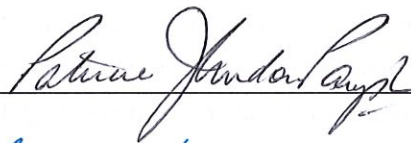
5 Conclusion

The PAC would like to acknowledge the advice and assistance provided by the Auditor General, Mrs. Heather Thomas, and her professional staff during our deliberations; as well as the sterling work done on behalf of the Committee by Deputy Clerk to the Legislature Mr. Clark W Somner.

Your Committee requests that this Report be forwarded to the Ministry of Finance for consideration and response on the Recommendations made by the Committee.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Hon. Patricia J. Gordon-Pamplin, J.P., M.P. – Chair



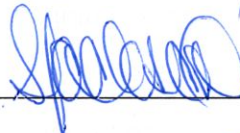
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Dated: 29th November 2019